

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 96-31226

UNIROYAL CHEMICAL COMPANY, INC.,

Plaintiff-Appellant,

VERSUS

DELTECH CORP.; ET AL.,

Defendants,

SAFEWAY TRANSPORTATION, INC.; TMI ENTERPRISE, INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana

January 8, 1999

ON PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC
(Opinion November 10, 1998, 5th Cir. 1998, _____F.3d_____)
Before MAGILL,¹ SMITH, and DeMOSS, Circuit Judges
DeMOSS, Circuit Judge:

Construing the Suggestion for Rehearing en Banc of Defendants-Appellees Safeway Transportation, Inc., and TMI Enterprises, Inc., as a Petition for Panel Rehearing, we conclude that the petition is due to be GRANTED-IN-PART as follows. The last sentence in the introduction is revised from "We vacate the district court's

¹ Circuit Judge of the Eighth Circuit, sitting by designation.

judgment and remand this action for entry of judgment in favor of Uniroyal," to read "We vacate the district court's judgment and remand this action for further proceedings consistent with this opinion." Also, the last sentence in the opinion's conclusion is revised from "Based on the foregoing, we VACATE the judgment of the district court granting summary judgment to the defendants, and REMAND to the district court for entry of judgment in favor of Uniroyal as to CERCLA liability, and such further proceedings as to damages as may be required," to read "Based on the foregoing, we VACATE the judgment of the district court granting summary judgment to the defendants, and REMAND to the district court for further proceedings consistent with this opinion." Other than those two modifications, our opinion remains unchanged.